

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

Degelman Industries, Ltd.,

Plaintiff,

v.

Pro-Tech Welding & Fabrication, Inc.
and Michael Weagley,

Defendant(s).



06-CV-6346
VERDICT FORM

In accordance with the Court's instructions,
please answer the following questions. **Your**
answers for each question must be unanimous.

FINDINGS ON DEGELMAN'S CLAIMS

DEGELMAN'S UTILITY AND DESIGN PATENT CLAIMS AGAINST DEFENDANTS

1. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech Welding and Fabrication, Inc. ("Pro-Tech"), and/or Michael P. Weagley ("Weagley"), has infringed Claim 1 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	YES	YES
SPB Backhoe	YES	YES
SPS Skidsteer	YES	YES
SPC Compact	YES	YES
IST Loader	YES	YES
IST Backhoe	YES	YES
IST Skidsteer	YES	YES
PBS Pullback	YES	YES
FBL Foldout	YES	YES
FTF Forklift	YES	YES
SBL Switchblade Loader	YES	YES
SSB Switchblade Backhoe	YES	YES
SBS Switchblade Skidsteer	YES	YES

Super Duty Loader	YES	YES
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2. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 2 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	YES	Yes
SPB Backhoe	YES	Yes
SPS Skidsteer	YES	Yes
SPC Compact	YES	Yes
IST Loader	YES	Yes
IST Backhoe	YES	Yes
IST Skidsteer	YES	Yes
PBS Pullback	YES	Yes
FRL Foldout	YES	Yes
FTF Forklift	YES	Yes
SBL Switchblade Loader	YES	Yes
SSB Switchblade Backhoe	YES	Yes
SBS Switchblade Skidsteer	YES	Yes
Super Duty Loader	YES	Yes

3. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 3 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

4. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 4 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

5. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 5 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

6. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 6 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

7. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 7 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

8. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed Claim 8 of the '576 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	Yes	Yes
SPB Backhoe	Yes	Yes
SPS Skidsteer	Yes	Yes
SPC Compact	Yes	Yes
IST Loader	Yes	Yes
IST Backhoe	Yes	Yes
IST Skidsteer	Yes	Yes
PBS Pullback	Yes	Yes
FBL Foldout	Yes	Yes
FTF Forklift	Yes	Yes
SBL Switchblade Loader	Yes	Yes
SSB Switchblade Backhoe	Yes	Yes
SBS Switchblade Skidsteer	Yes	Yes
Super Duty Loader	Yes	Yes

9. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed the '097 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	NO	NO
SPB Backhoe	NO	NO
SPS Skidsteer	NO	NO
SPC Compact	NO	NO
IST Loader	NO	NO
IST Backhoe	NO	NO
IST Skidsteer	NO	NO
PBS Pullback	NO	NO

10. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed the '128 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	NO	NO
SPB Backhoe	NO	NO
SPS Skidsteer	NO	NO
SPC Compact	NO	No
IST Loader	NO	NO
IST Backhoe	NO	NO
IST Skidsteer	NO	NO
PBS Pullback	NO	NO
P ^P L Foldout	NO	NO
FTF Forklift	NO	NO

11. For each of the following products, has Degelman proven by a preponderance of the evidence that Defendants, Pro-Tech and/or Weagley, has infringed the '129 Patent?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
SPL Loader	NO	No
SPB Backhoe	NO	No
SPS Skidsteer	NO	No
SPC Compact	NO	No
IST Loader	NO	No
IST Backhoe	NO	No
IST Skidsteer	NO	No
PBS Pullback	NO	No

12. If you answered "Yes" to any of Questions 1 through 11, and thus found that any Defendant has infringed any Degelman patent(s), has Degelman proven by clear and convincing evidence that such Defendant's(s') infringement was willful?

(Please answer in each cell with a "Y" for "yes" (for Degelman), or with an "N" for "no" for each Defendant.)

Accused Defendant Product	Pro-Tech Welding and Fabrication, Inc.	Michael P. Weagley
'576 Patent (Claim 1)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 2)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 3)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 4)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 5)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 6)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 7)	<u>NO</u>	<u>NO</u>
'576 Patent (Claim 8)	<u>NO</u>	<u>NO</u>
'097 Patent	<u>NO</u>	<u>NO</u>
'128 Patent	<u>NO</u>	<u>NO</u>
'129 Patent	<u>NO</u>	<u>NO</u>

13. Have Defendants proven by clear and convincing evidence that Degelman's asserted utility and/or design patent claims are invalid?

'576 Patent
(Claim 1) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 2) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 3) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 4) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 5) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 6) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 7) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'576 Patent
(Claim 8) Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'097 Patent Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'128 Patent Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

'129 Patent Yes X (for Pro-Tech and/or Weagley) No _____ (for Degelman)

Dated: March 8, 2013

Anne M. Schuler
Foreperson